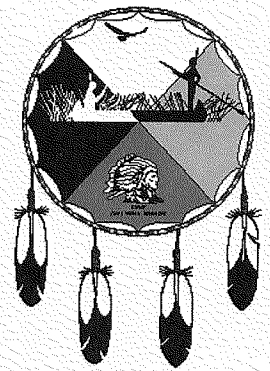


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Michigan DEQ
Upper Peninsula District Office
1504 West Washington Street
Marquette, MI 49855

January 31, 2018

Re: Back Forty Comments/Wetlands Permit Application

To whom it may concern:

First and foremost, I must question the significant facility design schematics from the one approved in the mining application. Is Michigan DEQ going to require Aquila to update the environmental analysis justifying these significant changes? Will Aquila be required to submit an amendment to the mining application? One of the most egregious changes relates to the Tailings and Waste Rock Management Facilities which have been changed both in location and scale and have been moved even closer to the Menominee River (see map)!

The expansion of the waste storage area appears to be in preparation of waste disposal from Aquila's proposed underground expansion at the Back Forty site and the import of high sulfide waste from the Bend and Reef sites in Wisconsin. Locating a regional sulfide ore waste disposal area near the Menominee River is in poor judgement.

Also, Aquila has claimed that the retaining wall will provide protection to the Menominee River but if you look at the maps they provided in the wetlands permit application it seems that Aquila has reduced the length of the wall. What is the reasoning behind this change? This project is in the Menominee River floodplain. A flooding of such a high sulfide mine project would be an environmental disaster.

How can you determine that this project is in the public's interest? Not to mention that the public will NOT realize benefits from this project. Aesthetic beauty is the main economic driver in this region. Small businesses depend on the natural and pristine nature of this area to attract fishermen, hunters, snowmobilers, skiers and outdoor enthusiasts alike. A mine and all the destruction it brings, will sacrifice the inherent allure of the Menominee River for short term economic gain.

In reparation for destroying crucial wetlands adjacent to the Menominee River, Aquila has proposed a preservation land swap as their method of wetland mitigation. This is the least preferred option and it appears Aquila chose that without providing any evidence that they thoroughly examined the more preferred options of restoration, creation and enhancement. EPA has claimed that preservation is the

Ga-na-waji Ga-wi-nug Way-ji-mooki-ji-wung Yi-ewe-meing-gun-a-sepii

least desired method of mitigation, behind restoration, creation and enhancement, because it does not meet the goal of no net loss of wetland function and acreage. Essentially, Aquila is proposing to do the least amount of work required when it comes to mitigation.

Wetlands are both sensitive and dynamic ecosystems. Yet, Aquila claims that, “no wetlands were found to be indirectly impacted during closure conditions”. However, we know that humans are nowhere near as good as nature is, when it comes to restoring and creating wetlands. The fact of the matter is, this mine and the operations surrounding it, will change this area permanently. No amount of grading or maintenance will ever return this area to its native hydrology. The current functions and values will be forever changed and so will the flora, fauna, streams, rivers, lakes and groundwater that depend on them.

Some of these stated values relate to the biological entities that make the Menominee and its tributaries their home; which includes the state-listed Black Sand shell, the state-listed Hickory nut and two mussels of special concern that went unlisted. Your review states that mussel densities were high compared to other similar streams/rivers sampled in Michigan, which would be encouraging if they weren’t under imminent threat from a mine. The fact is, mussel densities are fleeting; the Nature Conservancy reported that, “about 70 percent of mussels in North America are extinct or imperiled...” At a time when Mussels are on the brink of collapse, Aquila’s Mussel relocation plan does little in the way of comfort.

The Menominee River is also important habitat for a host of fish species, namely the Lake Sturgeon. Tracing back to the Cretaceous period, Lake Sturgeon have inhabited large river systems such as the Menominee. Unfortunately, Lake Sturgeon are listed as threatened or endangered by 19 of the 20 states they are native to, including Michigan. Over the last few years, private and federal grants aimed at remediating Sturgeon habitat have summed to almost six million dollars. Additional contributions from various agencies and dam owners have brought that total to well over 12 million. Allowing a mine on the banks of the Menominee River would completely negate all the hard work that went into these projects and once again show that we care more about economic gain than environmental recovery.

Furthermore, due to the mines close proximity to the Menominee River, 100 feet from the banks, and the riparian wetlands the mine would impact, the state of Michigan should not be legally allowed to grant this permit without Environmental Protection Agency [EPA] and US Army Corp of Engineers [USACE] oversight. According to the state of Michigan’s own website (https://www.michigan.gov/documents/deq/deq-LWMD-WetlandQA-Final_270993_7.pdf), “The state cannot assume 404 authority over waters that are essential to interstate commerce, including the Great Lakes and certain waters directly connected to the Great Lakes. In these areas, two permits are required for alteration of state waters – one from the DEQ and one from the USACE”. Furthermore, the USEPA and USACE issued a field guidance (http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/cwa_guide/jd_guidebook_051207final.pdf) stating that, “the agencies will assert jurisdiction over the following waters: traditional navigable waters [and] wetlands adjacent to traditional navigable waters...”

The characterization of groundwater levels and their relationship to the river wetlands is flawed as demonstrated by the questions raised by commenters and the DEQ itself. The errors identified in the groundwater and wetland characterization need to be fixed and the wetland impact analysis redone.

Lastly, environmental justice must be affirmatively applied to tribes and indigenous peoples. The one thing that Aquila Resources will never be able to restore is the cultural significance of the area. Michigan DEQ must think long and hard about granting the wetland permit because it will allow the project to move forward which will result in the removal and destruction of burial mounds and ancient garden beds among other archeological findings. I don't think you fully understand the spiritual and cultural impacts this will have on the Menominee People, I'm having a hard time trying to find the right words to explain the impacts it would leave on their people. You have a sovereign nation who has taught their generations for years and years about their creation story and where it began, when these stories are told it becomes a part of that person and their identity. It takes on a spiritual existence inside of them. It would be extremely disrespectful to allow the removal of their ancestors all for the sake of mining. You will take something away from the Menominee People FOREVER!

We stand with the Menominee Nation and ask you to deny the wetlands permit! If you have any questions or concerns, please contact my Environmental Director, Tina L. Van Zile at 715-478-7605 or tina.vanzile@scc-nsn.gov.

Respectfully,

A handwritten signature in black ink, consisting of several overlapping loops and a final flourish.

Chris McGeshick
Tribal Chairman